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Attorneys for Plaintiff  
**Sukh Deo Singh**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**Sukh Deo Singh**

Plaintiff,

Vs.

**LSG Sky Chefs, Inc.; Walter  
Gehl, CEO and Mary Donnelly**

Defendants.

USDC Case No

**CV 08 1353**

**COMPLAINT FOR RECOVERY  
OF PLAN BENEFITS  
USC Section 1132(a)(1)(B)**

**P.J.H**

**NOW COMES THE PLAINTIFF, Sukh Deo Singh,** by and through his undersigned attorneys, Charles J. Katz and Elladene Lee Katz, and hereby brings this action against the Defendant, **LSG Sky Chefs, Inc.,** et alia, and as for his causes of actions states as follows:

**JURISDICTION**

1  
2 1. Plaintiff alleges that Plaintiff's claims "*relate to*" an "*employee welfare*  
3 *benefit plan*" as defined by ERISA, 29 U.S.C. Section 1001 et seq. and that the subject  
4 Plan constitutes a "*plan under ERISA*". Therefore, Plaintiff alleges that this Court's  
5 jurisdiction is invoked pursuant to 28 U.S.C. Section 1337 and 29 U.S.C. Section  
6 1132(e).  
7

8 2. Venue is proper within the Northern District of California pursuant to 29  
9 U.S.C. Section 1132(e)(2) because the acts complained of have occurred within this  
10 district.  
11

12 **PARTIES**

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14 3. Plaintiff, **Sukh Deo Singh**, (hereinafter "*Plaintiff*") , is, and at all relevant  
15 times was, a resident of California in which Plaintiff resides.

16 4. Plaintiff alleges upon information and belief that Defendant, **LSG Sky**  
17 **Chefs, Inc.** (hereinafter "*Defendant*") is, and at all relevant times was, a corporation  
18 authorized to transact and transacting the business of insurance in California, and was  
19 the Claims Administrator for the Retirement Benefit Plan of LSG Sky Chefs, Inc. for  
20 employees represented by the Hotel Employees and Restaurant Employees  
21 International Union, ASSCIO (hereinafter "*The Plan*").  
22  
23

24 **FACTUAL BACKGROUND**

25 5. The Defendant paid benefits under the Retirement Plan to Plaintiff from on  
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1 or about February 16, 2004 to the present time in the amount of \$338.96. Plaintiff  
2 contends that Plaintiff should have been paid a higher amount in retirement benefits.

3 6. On July 20, 2003, Plaintiff was terminated because he was on a leave of  
4 absence for two years. Plaintiff was reassured that he would have full retirement,  
5 health, life, and medical benefits based upon his employment with the Company for 30  
6 years. Plaintiff was reassured that he would receive all benefits, Defendant never paid  
7 the full retirement, health, life and medical benefits. Defendant Mary Donnelly  
8 (hereinafter "Donnelly"), the Human Resource Manager of Defendant sent a letter to  
9 Plaintiff which was received on or about March 10, 2005 stating that she had reviewed  
10 Plaintiff's complaint for medical benefits and concluded that no medical benefits were to  
11 be given to Plaintiff because he was not eligible. According to Defendant, Plaintiff was  
12 terminated before he reached 55 years of age and was therefore not eligible for their  
13 benefits. Further, Defendant stated that Plaintiff was terminated because the maximum  
14 length of leave allowed was two years. In fact, the maximum amount of time was three  
15 years.  
16 years.

17  
18 7. On March 15, 2005, Plaintiff attempted to appeal the Defendant's decision  
19 that Plaintiff was not eligible for medical benefits or long-term disability. In a letter dated  
20 March 15, 2005 sent by Plaintiff's doctor, Donald B. Nichols, to Defendant Donnelly, the  
21 Human Resource Manager, Dr. Nichols argued that Plaintiff was on a leave of absence  
22 for disability based upon an injury on the job since July 20, 2001 and he was terminated  
23 July 20, 2003. The doctor stated that he provided further disability documentation to  
24 Defendant requesting that Plaintiff be out from June 1, 2003 to June 1, 2004, however,  
25 Defendant terminated Plaintiff. Dr. Nichols stated that Plaintiff should have been given  
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27



1 disability benefits under his retirement plan. Plaintiff should have been granted the  
2 additional year of disability leave, which would have given him time to reach age 55 in  
3 November of 2003. Instead, Defendant terminated Plaintiff claiming that there was only  
4 a two year maximum of leave which was not true. Further, after the termination,  
5 Defendant, Human Resource office, and Retirement Benefits Office continued to  
6 reassure Plaintiff in writing and verbally that he would be fully qualified for all benefits.  
7

8 8. Plaintiff has requested the Human Resource Department and the  
9 Retirement and Benefits Center, to further investigate and reconsider his claim for full  
10 retirement and medical benefits. Defendant remanded the claim to Defendant Donnelly,  
11 the Human Resource Manager who decided that after her review of the file on or about  
12 March 10, 2005, that Plaintiff did not have eligibility rights for medical benefits under the  
13 retirement plan because he was terminated after a two year maximum length of leave.  
14

15 9. On or about March 10, 2005, Defendant denied Plaintiff's appeal, closed  
16 the Administrative record and determined that all administrative remedies had been  
17 exhausted.  
18

19 **FIRST CAUSE OF ACTION**  
20 **FOR RECOVERY OF PLAN BENEFITS, PURSUANT**  
21 **TO 29 U.C.S. SECTION 1132(A)(1)(B)**

22 10. Plaintiff incorporates those allegations of the Jurisdiction, Parties, and  
23 Factual Background sections as though set forth in full in this cause of action.

24 11. Under the terms of the Plan, Defendant agreed to provide Plaintiff with  
25 Benefits which included a monthly pension of approximately \$454.54 and Retiree Group  
26 Life and Health Plan benefits, based upon his seniority and number of years with the  
27 Company. After Plaintiff was terminated, Defendant stated that effective January 1,  
28

1 2004 an employee on sick leave would receive accrued Company seniority when the  
2 employee returned to active employment. However, Plaintiff was out because of an  
3 injury on duty leave, i.e., certain disc injury to his spine and under the Company's own  
4 policies and provisions, seniority shall accrue during the entire period of an injury on-duty  
5 leave. Therefore, Plaintiff should have been credited with almost 30 years of  
6 employment, and should have qualified for full retirement and medical benefits.  
7 Defendant failed to provide such benefits.  
8

9 12. Denial of benefits to Plaintiff constitutes a breach of the Plan between  
10 Defendant and Plaintiff. Plaintiff seeks reimbursement and compensation for any and all  
11 benefits he would have received as a result of Defendant's failure to provide coverage in  
12 an amount presently unknown but to be set forth at the time of trial.  
13

14 13. Defendant has arbitrarily and capriciously breached the obligations set  
15 forth in the Plan. Defendant has arbitrarily and capriciously breached its obligations  
16 under the ERISA policy to provide Plaintiff benefits even though Plaintiff's benefits are  
17 covered under the terms of the Plan.  
18

19 14. As a direct and proximate result of the aforementioned conduct of  
20 Defendant in failing to provide coverage and pay benefits to Plaintiff, Plaintiff has been  
21 damaged in an amount equal to the amount of benefits to which Plaintiff would have  
22 been entitled under the terms of the Plan.  
23

24 15. As a direct and proximate result of the aforesaid conduct of Defendant in  
25 failing to provide coverage and benefits under the Plan, Plaintiff has suffered, and will  
26 continue to suffer in the future, damages under the Plan, plus interest and other  
27

1 economic and consequential damages, for a total amount to be determined at the time of  
2 trial.

3 16. Plaintiff is entitled to benefits and prejudgment interest at the appropriate  
4 rate.  
5

6  
7 **SECOND CAUSE OF ACTION**  
8 **FOR AN AWARD OF ATTORNEY'S FEES AND COSTS,**  
9 **PURSUANT TO 29 U.S.C. SECTION 1132(G)(1)**

10 17. Plaintiff incorporates those allegations of the Jurisdiction, Parties and  
11 Factual Background sections along with the First Cause of Action as those set forth in  
12 full in this cause of action.

13 18. 29 U.S.C. Section 1132(g)(1) authorizes this Court to award reasonable  
14 attorney's fees and costs of action to either party in an ERISA action.

15 19. As a result of the actions and failings of the Defendant, Plaintiff has  
16 retained the services of legal counsel and has necessarily incurred attorney's fees and  
17 costs in prosecuting this action. Further, Plaintiff anticipates incurring additional  
18 attorney's fees and costs in hereafter pursuing this action, all in a final amount which is  
19 currently unknown. Plaintiff therefore requests an award of reasonable attorney's fees  
20 and costs.  
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22  
23 **PRAYER FOR RELIEF**

24 **WHEREFORE**, Plaintiff prays for judgment as follows:

25 A. For a declaration regarding the Defendant's noncompliance with minimum  
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requirements of ERISA and other federal and state laws in connection with the denial of benefits;

B. For benefits payable under the Plan to reimburse Plaintiff for payments that Plaintiff has been entitled to receive;

C. For future benefits payable under the Plan Plaintiff is entitled to receive;

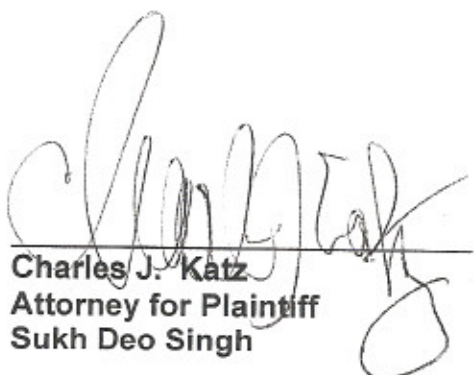
D. For an award of prejudgment interest;

E. For an award of reasonable attorney's fees pursuant to 29 U.S.C. Section 1132(g)(1);

F. For costs incurred; and

G. For such other and further relief as the Court deems appropriate.

Dated: March 7, 2008



Charles J. Katz  
Attorney for Plaintiff  
Sukh Deo Singh